

2009-2010 Annual Report
State Superintendent's Advisory Council on Special education
Submitted July 2010

Mandated under Chapter 15.377(4), Wisconsin Statutes and 20 U.S.C. 1412(a)(21), the Wisconsin State Superintendent's Advisory Council on Special Education serves as an advisory council to the State Superintendent on matters related to statewide delivery of special education programming and related services. The Council also provides input when requested to proposed changes and revisions to state policies, rules regulations, and initiatives that affect students with disabilities and their advocates.

Council members are appointed by the State Superintendent. They represent a wide range of interested citizens, professionals, and educators from throughout the state. Council members include parents, teachers, administrators, administrators of programs for students with disabilities, and others concerned about the education of students with disabilities. Council meetings covered in this report were held on April 30, 2009; November 16, 2009; February 12, 2010, and April 16, 2010. The meetings were open to the public. Anyone wishing to address the council is always permitted to do so.

The 2009-2010 Council worked to gain a better understanding of several issues affecting special education throughout the state. Key issues included: the America Recovery and Reinvestment Act (ARRA) requirements, Race to the Top (R2T), Disproportionality in Special Education, State Performance Target Goals Indicators, the Annual Performance Report, foster care and related special education issues, the fiscal audit, the Office of Special Education Programs (OSEP) verification visit, Specific Learning Disability eligibility criteria, and updates on multiple other issues detailed below.

In November, the Department initiated a paperless process for sharing Individuals with Disabilities Education Act (IDEA) complaint and due process hearing decisions with the Council. Both are now available to Council members and the public by accessing the DPI website. From April of 2009 until July of 2010, sixty nine IDEA complaint decisions, three due process hearing decisions, and three information Update Bulletins were shared with the Council.

The Council completed USDE-OSEP questionnaires as part of OSEP's auditing process.

Reports

The Council heard presentations from and/or discussed when appropriate the following topics/issues:

- Gary Myrah
 - ✓ Reported on the progress of the Special Legislative Committee on School Safety related to SB154 and SB 155
 - ✓ Conveyed correspondence related to the creation of the Wisconsin Response to Intervention (RTI) Communication Council and its work toward creating a common vision for RTI in Wisconsin

- Stephanie Petska and Carol Noddings-Eichinger
 - ✓ Reported on the gap in compliance with Indicator # 12 related to requirements to share identifying information and appropriately transitioning special education students from birth to three programs to 4 year old programming
 - ✓ Later confirmed that the state had met Indicator # 12 compliance requirements
- Stephanie Petska
 - ✓ Regularly updated the Council on the Jamie S. v. Milwaukee Public Schools case
 - ✓ Presented information and updates on the Milwaukee DIFI intervention
 - ✓ Presented information and updates related to “Race to the Top” (R2T) dollars and the state’s application for the funds
 - ✓ Reported that DPI in collaboration with the twelve cooperative educational service agencies (CESAs) created a Response to Intervention Center
 - ✓ Reported that the OSEP would visit in December 2009 as part of its regular monitoring process and monitor the Department on:
 1. General Supervision
 2. Data collection and reporting
 3. Fiscal Monitoring
 - ✓ Updated the Council on the SIMS and MDAT data systems
 - ✓ Updated the Council on several occasions on issues related to state and national initiatives related to seclusion and restraint including new OCR reporting requirements related to this issue
 - ✓ Reported on the use of and reporting requirements for American Recovery and Reinvestment (ARRA) funds
 - ✓ Updated the council on the statewide Systems Change Grants
 - ✓ Informed the Council that the OIG fiscal review team had no questions related to the January U.S. Department of Education audit of ARRA funds through Title I Part A, IDEA Part B, and State Fiscal Stabilization Fund (SFSF)
 - ✓ Informed the Council that the Obama administration released a blueprint for the revision of the Elementary and Secondary Education Act (ESEA)
- Stephanie Petska and Vaunce Ashby
 - ✓ Reported on initiatives to determine a new definition and new criteria for specific learning disabilities. The proposed rule was reviewed by the council.
- Mary Sobezak, June Paul, and Stephanie Petska
 - ✓ Provided updates on issues and publications related to the issue of seclusion/restraint
- The Council
 - ✓ Reviewed the new department publications on Compulsory Attendance, School Discipline, and Alternatives to Expulsion
 - ✓ Reviewed the State Superintendent’s “Every Child a Graduate”
 - ✓ Received the Cabinet Contact documents
 - ✓ Reviewed WI Part B Annual Performance Report 2007-2008 Indicators 18 and 19 and the 2008-2009 Summary
 - ✓ Reviewed the 10 year history of special education prevalence

Listening Sessions: 2009-2010

The Council held its annual Listening Session in conjunction with the State Superintendent’s Leadership Conference on Special Education and Pupil Services Leadership Issues at the Marriot West November 15, 2009. A summary of the comments made at those sessions follows:

- Autism
 - ✓ A belief in the need for the use of more social stories with autistic children
 - ✓ A concern about the denial of services for a student with autism because his/her IQ was too high
 - ✓ A concern that the mandatory 5 year old kindergarten attendance requirements will cause parents of autistic children to choose between recently mandated insurance provided home therapy with homeschooling or 5 year old kindergarten
 - ✓ A comment that autism training is critical and a request that funding not be cut for this training
 - ✓ Support for the autism internet modules and a statement that they are a great resource
- Communication
 - ✓ The need for additional parent involvement and greater communication between professional educators and parents
 - ✓ A desire of a parent liaison to provide more help to parents as they attempt to talk to district staff
- Funding
 - ✓ A concern that districts that provide quality services and welcome special education students under open enrollment cannot afford to serve them without taking away from regular education students
 - ✓ Fear that boards will cut services because of the expense of special education and a belief that special education services take away funds from the regular education students
 - ✓ A concern that the discontinuation of assistive technology grants has created a “big hole” not filled by other sources
 - ✓ A concern that with declining enrollments some districts have less special education students but the ones they now serve have more extreme needs and cost more. Therefore, there is no cost savings in decreased numbers because the levels of severity are higher
- Medical Reimbursements
 - ✓ A concern about issues related to medical billing reimbursement issues and the paperwork involved for the amount of funding available
 - ✓ A concern about being forced to repay reimbursement dollars received during the past two years for medical/Medicaid costs
- Testing
 - ✓ A concern that the percentage requirement under NCLB forces many children to take the regular form of the WKCE instead of allowing them to take an alternative form even though the regular form is not appropriate for these students. A belief that this humiliates the child and creates a sense of failure in the child
 - ✓ A suggestion that a MAPS type of assessment would be more appropriate than WKCE for many special education students
 - ✓ Support for changing the WKCE and for allowing all students who need an alternate test to take an alternative form of the test
- Early Childhood Education
 - ✓ A suggestion that the issues related to the location and funding of services provided to children with disabilities in day care be studied and that improvements be considered
 - ✓ A concern that more emphasis on Child Find is needed in private and parochial schools

- General Comments
 - ✓ A concern for children that “fall through the cracks”
 - ✓ A suggestion that IEPs include the arts as a component
 - ✓ The desire of an arts organization to advertise their services and to collaborate with schools to provide increased art experiences for disabled children
 - ✓ A suggestion that we focus on the kids and building communication, cooperation and trust with the parents
 - ✓ A concern that the categorical model gets in the way of helping children
 - ✓ A concern about issues related to the time billing, reports and paperwork for school based services takes
 - ✓ A request to continue printing parent materials because they fill a real need

The Council attended the Family Voices Listening Session at the Circles of Life Conference in Middleton, Wisconsin in April 2009. The following needs were discussed at the April Listening Session

- ✓ The need of family members for good and accurate information
- ✓ Prior authorization issues
- ✓ Difficulties faced by grandparents accessing funds and services for the grandchild in her care
- ✓ The need for transportation, nursing care
- ✓ The interface difficulties with the interface between SSI and fluctuating income of the family
- ✓ The length of waiting lists
- ✓ The placement of children in segregated classrooms instead of the most inclusive environment
- ✓ Concerns about the aging population of disabled people including the numbers, the amount of available services, and the connection between Downes syndrome and Alzheimer’s disease
- ✓ Lack of insurance and services for the mentally ill and adults
- ✓ The lack of providers in rural areas
- ✓ Shrinking services
- ✓ Lack of consideration of the cost of not doing something now
- ✓ Lack of MA coverage for prevention services
- ✓ Lack of services and insurance coverage for children with autism
- ✓ Concerns about the use of seclusion and restraint

Council members indicated that they **would like to see the following:**

- An OSEP process more similar to focused monitoring
- An OSEP process developed with self improvement indicators similar to a focused monitoring process
- A change in the way complaint and hearing decisions are posted on the Department's web site. The Council would like to see the issues addressed in each complaint listed along with the location, date, number of the complaint, and the decision rendered
- More information on the new criteria for determining learning disabilities

The Council **approved the following motions:**

- The Council recommended that the State Superintendent support allowing a parent opt-out of birth to three services at 2 years and 6 months and that data be provided to the LEA after that opt-out date

- The Council requested that the chair of the Council contact OSEP regarding concerns the Council had about the format and questions of the OSEP questionnaires
- The Council voiced support of the proposed rule changes related to the identification of children with specific learning disabilities while at the same time voicing concerns about:
 1. the need to clarify evaluation procedures for children attending private and parochial schools
 2. the need for timelines for full implementation within the sunset provision
 3. the need for universal professional development related to intervention procedures and progress monitoring
 4. the need for suggestions for ways to resolve issues that arise when a parent seeks independent educational evaluation from a professional using a significant discrepancy model to determine disability

The Council had a very productive year. Discussion and sharing among Council members, input at the public listening session, and reports from Department and outside presenters strengthened the Council and increased the understanding of all members of the Council and the constituencies that they represent.

On behalf of the State Superintendent's Advisory Council on Special Education, I wish to express our appreciation to Dr. Stephanie Petska, Courtney Reed Jenkins, and Marjorie Schenk for their diligent work on behalf of the special education community and Council. I also wish to express our appreciation to the other members of the Department who took their time to present information and share their expertise with the Council. Finally, we would like to thank you for your support and for the opportunity to serve.

Respectfully Submitted,

Holly Hart

Holly Hart, PhD
 Vice Chairperson
 State Superintendent's Advisory Council on Special Education

cc: Carolyn Stanford Taylor, Assistant State Superintendent, Learning Support: Equity & Advocacy
 Stephanie Petska, Director, Special Education Team
 Courtney Reed Jenkins, Consultant, Special Education Team